

§ 779.8 Reexports of technical data and exports of the product manufactured abroad by use of United States technical data.

(b) * * *

(2) *COCOM authorization.* Separate specific authorization by the Office of Export Licensing to export or reexport any U.S.-origin technical data or the foreign-produced direct product thereof is not required if all of the following conditions are met:

(i) The items being exported are identified by the suffix "A" on the CCL;

(ii) The export or reexport is from a COCOM participating country, i.e., Australia, Belgium, Canada, Denmark, France, the Federal Republic of Germany, Greece, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, or the United Kingdom;

(iii) The export or reexport is made in accordance with the conditions of the licensing authorization issued by the applicable COCOM participating country; and

(iv) The export or reexport is to a country in Country Group Q, W, or Y or the People's Republic of China.

Dated: April 22, 1992.

James M. LeMunyon,

Acting Assistant Secretary for Export Administration.

[FR Doc. 92-9847 Filed 4-30-92; 8:45 am]

BILLING CODE 3510-DT-M

15 CFR Part 799

[Docket No. 920371-2071]

Revision of General License GCT; COCOM Trade

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule, with request for comments.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to adjust the number of commodities eligible for shipment under General License GCT. General License GCT authorizes exports to COCOM member countries, Austria, Finland, Ireland, Sweden, and Switzerland of most commodities that are controlled under "A" level Export Control Classification Numbers (ECCNs) on the Commerce Control List (CCL) except those commodities specifically excluded by the GCT paragraphs in certain ECCNs. This rule expands General License GCT eligibility to include all

"A" level commodities included on the CCL, except supercomputers, cryptographic equipment, and commodities listed on the International Atomic Energy List (IAEL), the International Munitions List (IML), the Missile Technology Control Regime (MTCR), and certain commodities on the Nuclear Referral List.

Although this rule narrows GCT eligibility in certain cases, the net result of these changes will result in a decrease in the number of validated license applications that would have to be submitted for GCT eligible destinations.

DATES: This rule is effective May 1, 1992. Comments must be received by June 15, 1992.

ADDRESSES: Written comments (six copies) should be sent to: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-2440.

SUPPLEMENTARY INFORMATION:

Background

This rule expands the number of commodities eligible for shipment under General License GCT to include all "A" level commodities on the CCL except supercomputers, cryptographic equipment, and commodities on the International Atomic Energy List (IAEL), the International Munitions List (IML), and the Missile Technology Control Regime (MTCR), and those image intensifier tubes, high speed cameras and flash X-ray systems controlled on the Nuclear Referral List. The supercomputer exclusion continues to apply to computers having a Composite Theoretical Performance (CTP) capability equal to or greater than 195 MTOPS (million theoretical operations per second). The supercomputer exclusion does not apply to Japan.

The increase in the number of GCT eligible commodities is made possible by the agreement of member countries of the Coordinating Committee for Multilateral Export Controls (COCOM) to fully implement the Common Standard Level of Effective Protection (Common Standard) by January 1, 1992. Agreement on full implementation of the Common Standard was reached at a high level COCOM meeting on May 23, 1991.

The United States is consulting with COCOM member countries, the Australia Group countries, and countries participating in the Missile Technology Control Regime to establish a harmonized exclusion list that would apply to General License GCT. This might result in making an even broader range of commodities eligible for General License GCT (e.g., certain "A" level commodities that are currently subject to foreign policy controls on missile technology and certain "B" level commodities). The Bureau of Export Administration (BXA) encourages comments on General License GCT and commodities that should make up the exclusion list.

This rule retains the importer statement requirement described in § 771.25(d) of the Export Administration Regulations (EAR). The importer statement is required for any "A" level commodities that are not eligible for the General License GFW. Exporters are encouraged to comment on the effectiveness and appropriateness of this requirement.

Saving Clause

Shipments of items removed from general license authorizations as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard carrier to a port of export pursuant to actual orders for export before May 18, 1992 may be exported under the previous general license provisions up to and including June 1, 1992. Any such items not actually exported before midnight June 1, 1992, require a validated export license in accordance with this regulation.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule affects collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). A reduction in validated licensing requirements will occur because of this rule, reducing the paperwork burden on the public. Affected OMB collections have been approved under Control Numbers 0694-0005, 0694-0007, 0694-0010, and 0694-0015.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C.

553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. This rule does not impose a new control. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is being issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. The Department specifically encourages comments on the Importer Statement requirements of § 771.25(d). Comments on making certain "B" level commodities eligible for General License GCT are also encouraged.

The period for submission of comments will close June 15, 1992. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377-2593.

List of Subjects in 15 CFR Part 799

Exports, Reporting and recordkeeping requirements.

Accordingly, part 799 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

1. The authority citation for 15 CFR Part 799 is revised to read as follows:

Authority: Public Law 90-351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Public Law 93-153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Public Law 94-163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(1)(e), Public Law 94-258, 90 Stat. 309 (10 U.S.C. 7420 and 7420(e)), as amended; Public Law 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Public Law 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Public Law 95-372, 92 Stat. 668 (43 U.S.C. 1354); Public Law 96-72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Public Law 99-64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 8, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990) as continued by Notice of September 26, 1991 (56 FR 49385, September 27, 1991); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

PART 799—[AMENDED]

2. In Supplement No. 1 to § 799.1 (the Commerce Control List), the entries listed below are amended by revising the Requirements section for each entry:

- A. In Category 1, Materials: ECCNs 1B01A, 1B18A, 1B19A, 1C18A, and 1C19A;
- B. In Category 2, Material Processing: ECCNs 2A19A, 2B05A, and 2B18A;
- C. In Category 3, Electronics: ECCN 3B01A;

D. In Category 4, Computers: ECCN 4A01A;

E. In Category 6, Sensors: ECCNs 6A01A, 6A02A, 6A03A, and 6A18A;

F. In Category 8, Marine Technology: ECCNs 8A01A, 8A02A, and 8A18A;

G. In Category 9, Propulsion Systems and Transportation Equipment: ECCNs 9B01A, 9B06A, and 9B26B; and

H. In Category 0, Miscellaneous: ECCN 0A18A.

1B01A Equipment for the production of fibers, prepreps, preforms or composites controlled by 1A02 or 1C10, as follows, and specially designed components and accessories therefor.

Requirements

Validated License Required: QSTVWYZ.

Unit: \$ value.

Reason for Control: NS, MT, NP (see Note).

GLV: \$5,000.

GCT: Yes, except MT (see Note).

GFW: No.

Group W Favorable Consideration: No for 1B01.a and .b.

Note: MT controls apply, except to .d.4. NP controls apply to filament winding machines described in .a that are capable of winding cylindrical rotors having a diameter between 3 inches and 16 inches and a length of 24 inches or greater.

1B18A Commodities on the International Munitions List.

Requirements

Validated License Required: QSTVWYZ.

Unit: Equipment in number, parts & accessories in \$ value.

Reason for Control: NS and MT (see Note).

GLV: 1B18.a.1: \$3,000 for NATO, Japan,

Australia, New Zealand only; 1B18.b: \$5,000.

GCT: No.

GFW: No.

Note: MT controls apply to equipment for the production of rocket propellants.

1B19A Commodities on the International Atomic Energy List.

Requirements

Validated License Required: QSTVWYZ.

Unit: \$ value.

Reason for Control: NS and NP.

GLV: \$3,000 for 1B19.b only.

GCT: No.

GFW: No.

1C18A Items on the International Munitions List.

Requirements

Validated License Required: QSTVWYZ.

Unit: Kilograms.

Reason for Control: NS.

GLV: \$3,000.

GCT: No.

GFW: Yes, (Advisory Note only).

1C19A Items on the International Atomic Energy List.

Requirements

Validated License Required: QSTVWYZ.

Unit: Kilograms.

Reason for Control: NS, NP.

GLV: 1C19.a and .e: \$3,000; 1C19.b and .c: \$500; 1C19.b: \$1,500.

GCT: No.

GFW: Yes, for 1C19.a (Advisory Note 1 only); Yes, for 1C19.b (Advisory Note 2 only).

2A19A Commodities on the International Atomic Energy List.

Requirements

Validated License Required: QSTVWYZ.

Unit: Number; \$ value for parts and accessories.

Reason for Control: NS and NP.

GLV: \$500; 2A19.a; \$0; 2A19 .b and .c.

GCT: No.

GFW: Yes for 2A19.b (Advisory Notes 1 and 2 only) and for 2A19.c (Advisory Note 3 only).

2B05A Equipment specially designed for the deposition, processing and in-process control of inorganic overlays, coatings and surface modifications, as follows, for non-electronic substrates, by processes shown in the Table and associated Notes following 2E03.d and specially designed automated handling, positioning, manipulation, and control components therefor.

Requirements

Validated License Required: QSTVWYZ.

Unit: \$ value.

Reason for Control: NS.

GLV: \$1,000.

GCT: Yes.

GFW: No.

Group W Favorable Consideration: No.

2B18A Commodities on the International Munitions List.

Requirements

Validated License Required: QSTVWYZ.

Unit: Number; \$ value for parts and accessories.

Reason for Control: NS, MT, and FP (see Notes).

GLV: \$3,000.

GCT: No.

GFW: Yes (Advisory Note only).

Group W Favorable Consideration: Yes, except MT (see Notes).

Notes: 1. MT controls apply to specialized machinery, equipment, and gear for producing rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicles systems (including cruise missile systems, target drones, and reconnaissance drones) as described in § 778.7(a) of this subchapter, their propulsion systems and components, and pyrolytic deposition and densification equipment.

2. FP controls apply to all exports to South Africa of commodities described in 2B18.

3B01A Equipment for the manufacture or testing of semiconductor devices or materials, as follows, and specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ.

Unit: Number.

Reason for Control: NS.

GLV: \$500.

GCT: Yes.

GFW: No.

Group W Favorable Consideration: Yes, except 3B01.a.2, .a.3, and .g.

4A01A Electronic computers and related equipment, as follows, and "assemblies" and specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ.

Unit: Computers and Peripherals in Number, Parts and Accessories in \$ value. *Reason for Control:* NS, MT, and NP (see Notes).

GLV: \$5,000 for 4A01.a only; \$0 for 4A01.b.

GCT: Yes, except MT and except electronic computers with a CTP equal to or greater than 195 Mtops (no CTP ceiling for Japan).

GFW: No.

Group W Favorable Consideration: No.

Notes: 1. MT controls apply to 4A01.a.

2. NP controls apply to the following: a. Supercomputers (as defined in § 770.3 of this subchapter) to countries listed in Supplement Nos. 2 and 8 to Part 773 of this subchapter;

b. Computers with a CTP exceeding 41 Mtops to countries listed in Supplement No. 3 to Part 773 of this subchapter;

c. Computers with a CTP exceeding 12.5 Mtops to all other destinations.

6A01A Acoustics.

Requirements

Validated License Required: QSTVWYZ.

Unit: \$ value.

Reason for Control: NS.

GLV: \$3,000.

GCT: Yes.

GFW: Yes for 6A01.a.1.b.4 only (see Advisory 1).

Group W Favorable Consideration: No.

6A02A Optical Sensors.

Requirements

Validated License Required: QSTVWYZ.

Unit: Number; \$ value for parts and accessories.

Reason for Control: NS, FP, MT and NP (see Notes).

GLV: \$3,000.

GCT: Yes, except MT, 6A02.a.1, .a.2, .a.3, and .c (see Notes).

GFW: Yes (Advisory Notes 2 and 3 to Category 6 only).

Group W Favorable Consideration: Yes, except MT (see Notes).

Notes: 1. FP controls apply to any destination except Australia, Japan, New Zealand, and members of NATO for police model infrared viewers controlled by this ECCN.

2. MT controls apply to optical detectors described in 6A02.a.1, .a.3, and .a.4 that are specially designed or rated as electromagnetic (including "laser") and ionized-particle radiation resistant.

3. NP controls apply to all countries, except countries listed in supplement no. 2 to part 773 of this subchapter, for image intensifier tubes and specially designed components described in 6A02.a.2.

6A03A Cameras.

Requirements

Validated License Required: QSTVWYZ.

Unit: Number.

Reason for Control: NS and NP (NP controls apply to 6A03.a.2 through .a.5 and .b.1 only).

GLV: \$1,500.

GCT: Yes, except 6A03.a.2, .a.3, .a.4, .a.5, and .b.1.

GFW: No.

Group W Favorable Consideration: Yes, except 6A03.a.2 and .a.3.

6A18A Magnetic, pressure, and acoustic underwater detection devices and specially designed for military purposes and controls and components therefor.

Requirements

Validated License Required: QSTVWYZ.

Unit: Number, \$ value for components.

Reason for Control: NS.

GLV: \$5,000.

GCT: No.

GFW: No.

8A01A Submarine vehicles or surface vessels.

Requirements

Validated License Required: QSTVWYZ.

Unit: Vessels or Vehicles in Number, Parts and Accessories in \$ value.

Reason for Control: NS.

GLV: \$5,000.

GCT: Yes.

GFW: No.

Group W Favorable Consideration: Yes, except 8A01.a, .b, .c, and .d.

8A02A Systems or equipment.

Requirements

Validated License Required: QSTVWYZ.

Unit: Number.

Reason for Control: NS.

GLV: \$5,000.

GCT: Yes.

GFW: 8A02.i.2 only (see Advisory Note).

Group W Favorable Consideration: Yes, except 8A02.a, .b, .c, .h, and .i.

8A18A Commodities on the International Munitions List.

Requirements

Validated License Required: QSTVWYZ (see Notes).

Unit: \$ value.

Reason for Control: NS.

GLV: \$5,000.

GCT: No.

GFW: No.

Notes: Marine water tube boilers require validated licensing only for QSWYZ, PRC, Iran, Syria, and Afghanistan.

9B01A Specially designed equipment, tooling or fixtures, as follows, for manufacturing or measuring gas turbine blades, vanes or tip shroud castings.

Requirements

Validated License Required: QSTVWYZ.

Unit: \$ value.

Reason for Control: NS, MT (see Note).

GLV: \$5,000.

GCT: Yes, except MT (see Note).

GFW: No.

Note: MT controls apply to equipment for test, inspection, and production of small lightweight turbine engines described in 9A21.

9B06A Specially designed acoustic vibration test equipment capable of producing sound pressure levels of 160 dB or more (referenced to 20 micropascals) with a rated output of 4 kW or more at a test cell temperature exceeding 1273 K (1000 C), and specially designed transducers, strain gauges, accelerometers, thermocouples, or quartz heaters therefor.

Requirements

Validated License Required: QSTVWYZ.

Unit: Number.

Reason for Control: NS and MT (see Note).

GLV: \$3,000.

GCT: Yes, except MT (see Note).

GFW: No.

Note: Missile technology controls apply to vibration test equipment.

9B26B Other vibration test equipment, as follows:

Requirements

Validated License Required: QSTVWYZ.

Unit: \$ value.

Reason for Control: MT and NP (see Note).

GLV: \$3,000.

GCT: No.

GFW: No.

Note: Nuclear non-proliferation controls apply to 9B26.a only.

0A18A Items on the International Munitions List.

Requirements

Validated License Required: QSTVWYZ.

Unit: 0A18.a through .c: \$ value; 0A18.d through .f: Number.

Reason for Control: NS and FP (see Notes).

GLV: 0A18.a and .b: \$5,000; 0A18.c: \$3,000; 0A18.d through .f: \$1,500.

GCT: No.

GFW: No.

Notes: 1. FP controls apply to all exports to South Africa of items controlled by 0A18.b, .c, .d, and .e (see Supplement No. 2, to Part 779 of this subchapter).

2. FP controls for regional stability also apply to 0A18.c, except to NATO, Japan, Australia, and New Zealand.

3. License for export to Iran and Syria will generally be denied.

3. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 9—Propulsion Systems and Transportation Equipment, entry 9B07 is amended by revising the Requirements section, by removing the List of Items Controlled heading, and by revising the note to read as follows:

9B07A Equipment specially designed for inspecting the integrity of rocket motors using non-destructive test (NDT) techniques other than planar X-ray or basic physical or chemical analysis.

Requirements

Validated License Required: QSTVWYZ.

Unit: Number.

Reason for Control: NS and MT (see Note).

GLV: \$0.

GCT: Yes, except MT (see Note).

GFW: No.

Note: MT controls include the following equipment covered by this item: Radiographic equipment capable of delivering electromagnetic radiation produced by "bremsstrahlung" from accelerated electrons of 2 Me V greater, except those specially designed for medical purposes.

Dated: April 22, 1992.

James M. LeMunyon,

Acting Assistant Secretary for Export Administration.

[FR Doc. 92-9849 Filed 4-30-92; 8:45 am]

BILLING CODE 3510-DT-M

FEDERAL TRADE COMMISSION**16 CFR Part 456****Ophthalmic Practice Rules****AGENCY:** Federal Trade Commission.**ACTION:** Final Trade regulation rule.

SUMMARY: The Federal Trade Commission has decided to remove portions of 16 CFR part 456, Ophthalmic Practice Rules, from the Code of Federal Regulations and to renumber the remaining portions of part 456. The portions to be removed prohibit state bans on the commercial practice of optometry and have been overturned by the U.S. Court of Appeals, D.C. Circuit. The remaining portions, to be renumbered, require optometrists and ophthalmologists to release eyeglass prescriptions. These portions were not overturned by the court and remain in effect.

EFFECTIVE DATE: May 1, 1992.

FOR FURTHER INFORMATION CONTACT: Renee Kinscheck, Division of Service

Industry Practices, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington DC (202) 326-3283.

SUPPLEMENTARY INFORMATION: On March 13, 1989, the Federal Trade Commission issued a Trade Regulation Rule on Ophthalmic Practice Rules. 54 FR 10285. In large part, this rule would have removed state prohibitions on the commercial practice of optometry (the "Eyeglasses II" Rule). The Commission also promulgated several amendments to the previously existing Ophthalmic Practice Rules (the "Eyeglasses I" rule), which requires optometrists and ophthalmologists to release eyeglass prescriptions to their patients. On August 28, 1990, the Court of Appeals for the D.C. Circuit vacated the Eyeglasses II rule, which would have removed state bans on commercial practice. *California State Board of Optometry v. FTC*, 910 F.2d 976 (D.C. Cir. 1990), *reh'g denied*, January 8, 1991. The court did not overturn the Commission's amendments to the Eyeglasses I prescription release rule, a rule which had previously been upheld by the court. *American Optometric Association v. FTC*, 626 F.2d 897 (D.C. Cir. 1980).

The Commission has amended the rule by removing the following sections of 16 CFR part 456: § 456.1(g) & (i), § 456.4, § 456.5(a), (b) and (d); and by redesignating § 456.1(h) and § 456.5(c) and 456.1(g) and 456.4 respectively.

Accordingly, 16 CFR part 456 is revised to read as follows:

PART 456—OPHTHALMIC PRACTICE RULES

Sec.

456.1 Definitions.

456.2 Separation of examination and dispensing.

456.3 Federal or State employees.

456.4 Declaration of Commission Intent.

Authority: 15 U.S.C. 57a; 5 U.S.C. 552.

§ 456.1 Definitions.

(a) A *patient* is any person who has had an eye examination.

(b) An *eye examination* is the process of determining the refractive condition of a person's eyes or the presence of any visual anomaly by the use of objective or subjective tests.

(c) *Ophthalmic goods* are eyeglasses, or any component of eyeglasses, and contact lenses.

(d) *Ophthalmic services* are the measuring, fitting, and adjusting of ophthalmic goods subsequent to an eye examination.

(e) An *ophthalmologist* is any Doctor of Medicine or Osteopathy who performs eye examinations.

(f) An *optometrist* is any Doctor of Optometry.

(g) A *prescription* is the written specifications for lenses for eyeglasses which are derived from an eye examination, including all of the information specified by state law, if any, necessary to obtain lenses for eyeglasses.

§ 456.2 Separation of examination and dispensing.

It is an unfair act or practice for an ophthalmologist or optometrist to:

(a) Fail to provide to the patient one copy of the patient's prescription immediately after the eye examination is completed. Provided: An ophthalmologist or optometrist may refuse to give the patient a copy of the patient's prescription until the patient has paid for the eye examination, but only if that ophthalmologist or optometrist would have required immediate payment from that patient had the examination revealed that no ophthalmic goods were required;

(b) Condition the availability of an eye examination to any person on a requirement that the patient agree to purchase any ophthalmic goods from the ophthalmologist or optometrist;

(c) Charge the patient any fee in addition to the ophthalmologist's or optometrist's examination fee as a condition to releasing the prescription to the patient. Provided: An ophthalmologist or optometrist may charge an additional fee for verifying ophthalmic goods dispensed by another seller when the additional fee is imposed at the time the verification is performed; or

(d) Place on the prescription, or require the patient to sign, or deliver to the patient a form or notice waiving or disclaiming the liability or responsibility of the ophthalmologist or optometrist for the accuracy of the eye examination or the accuracy of the ophthalmic goods and services dispensed by another seller.

§ 456.3 Federal or State employees.

This rule does not apply to ophthalmologists or optometrists employed by any Federal, State or local government entity.

§ 456.4 Declaration of Commission Intent.

In prohibiting the use of waivers and disclaimers of liability in § 456.2(d), it is not the Commission's intent to impose liability on an ophthalmologist or optometrist for the ophthalmic goods and services dispensed by another seller

pursuant to the ophthalmologist's or optometrist's prescription.

Donald S. Clark,

Secretary.

[FR Doc. 92-9947 Filed 4-30-92; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Issuance of Written Notices

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to the issuance of written notices concerning failure to file patent information and to comply with requirements pertaining to current good manufacturing practices and labeling for new drugs, new animal drugs, and feeds bearing or containing new animal drugs from the Commissioner of Food and Drugs to certain FDA officials. This action is being taken to make the process of issuing written notices more efficient.

EFFECTIVE DATE: May 1, 1992.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management Systems and Policy (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: FDA is amending the delegations of authority by adding new § 5.38 issuance of written notices concerning patent information, current good manufacturing practices and false or misleading labeling of new drugs, new animal drugs, and feeds bearing or containing new animal drugs. Under section 505(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(e)), § 5.38 redelegates the Commissioner's authority regarding the issuance of written notices to the Director, Deputy Director, and other officials of the Center for Drug Evaluation and Research. Under sections 512(e) and 512 (m)(4)(B)(ii) and (m)(4)(B)(iii) of the act (21 U.S.C. 360b(e) and 360b (m)(4)(B)(ii) and (m)(4)(B)(iii)), the Commissioner's authority regarding the issuance of written notices is redelegated to the Director, Deputy Director, and other officials of the Center for Veterinary Medicine. These

redelegations will make the process of issuing written notices more efficient.

Further redelegation of the authority is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 is revised to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261-1282, 3701-3711a; secs. 2-12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451-1461); 21 U.S.C. 41-50, 61-63, 141-149, 467f, 679(b), 801-886, 1031-1309; secs. 201-903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321-394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 361, 362, 1701-1706; 2101 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 264, 265, 300u-300u-5, 300aa-1); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007-10008; E.O. 11490, 11921, and 12591.

2. New § 5.38 is added to subpart B to read as follows:

§ 5.38 Issuance of written notices concerning patent information, current good manufacturing practices and false or misleading labeling of new drugs, new animal drugs, and feeds bearing or containing new animal drugs.

(a) The following officials are authorized to perform all the functions of the Commissioner of Food and Drugs under section 505(e) of the Federal Food, Drug, and Cosmetic Act (the act) regarding the issuance of written notices.

(1) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(2) The Director and Deputy Director, Office of Compliance, CDER.

(3) The Director and Deputy Director, Division of Drug Labeling Compliance, Office of Compliance, CDER.

(4) The Director and Deputy Director, Division of Manufacturing and Product Quality, Office of Compliance, CDER.

(5) The Director and Deputy Director, Division of Drug Quality Evaluation, Office of Compliance, CDER.

(6) The Director and Deputy Director, Division of Scientific Investigations, Office of Compliance, CDER.

(7) Regional Food and Drug Directors.

(8) District Directors.

(b) The following officials are authorized to perform all the functions of the Commissioner of Food and Drugs under sections 512(e) and 512 (m)(4)(B)(ii) and (m)(4)(B)(iii) of the act regarding the issuance of written notices.

(1) The Director and Deputy Director, Center for Veterinary Medicine (CVM).

(2) The Director and Deputy Director, Office of Surveillance and Compliance, CVM.

(3) The Director, Division of Compliance, Office of Surveillance and Compliance, CVM.

(4) Regional Food and Drug Directors.

(5) District Directors.

Dated: April 24, 1992.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 92-10191 Filed 4-30-92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances Temporary Placement of Methcathinone into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Administrator of the Drug Enforcement Administration (DEA) to temporarily place methcathinone into Schedule I of the Controlled Substances Act (CSA) pursuant to the emergency scheduling provisions of the CSA. This action is based on a finding by the DEA Administrator that the scheduling of methcathinone, at least on a temporary basis, is necessary to avoid an imminent hazard to the public safety. As a result of this rule, the regulatory controls and criminal sanctions imposed on Schedule I substances under the CSA will be applicable to the manufacture, distribution and possession of methcathinone.

EFFECTIVE DATE: May 1, 1992.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307-7183.

SUPPLEMENTARY INFORMATION: The Comprehensive Crime Control Act 1984 amended section 201 of the CSA (21 U.S.C. 811 et seq.) to give the Attorney General the authority to temporarily place a substance into Schedule I of the CSA if it is found that such action is necessary to avoid an imminent hazard to the public safety. The Attorney General has delegated this authority under 21 U.S.C. 811 to the Administrator of the DEA (28 CFR 0.100). A substance may be temporarily scheduled pursuant to the emergency scheduling provisions of the CSA if that substance is not listed in any schedule under section 202 of the CSA (21 U.S.C. 812) or if there is no approval or exemption in effect under 21 U.S.C. 355 of the Food, Drug and Cosmetic Act for the substance.

A notice of intent to temporarily place methcathinone into Schedule I of the CSA was published in the *Federal Register* on March 16, 1992 (57 FR 9080). The Administrator transmitted notice of his intention to temporarily place methcathinone into Schedule I of the CSA to the Assistant Secretary for Health of the Department of Health and Human Services. In response to this notification, the Food and Drug Administration, by letter, has advised DEA that there are no exemptions or approvals in effect under 21 U.S.C. 355 of the Food, Drug and Cosmetic Act for methcathinone. The letter further stated that the Department of Health and Human Services has no objections to DEA's intention to temporarily place methcathinone into Schedule I of the CSA. No other comments were received regarding this matter.

Methcathinone, also called ephedrone or 2-methylamino-1-phenylpropan-1-one, is an N-monomethylated phenylisopropylamine that has a chemical structure similar to that of methamphetamine. Limited pharmacological data indicate that methcathinone produces amphetamine-like, psychomotor stimulant activity in laboratory animals.

Five clandestine laboratories producing methcathinone have been encountered. Methcathinone is sold on the street as a "legal" stimulant under the street name, "cat." It is distributed as a powdered material and is administered via nasal inhalation.

In accordance with 21 U.S.C. 811(h)(3), the Administrator has considered the following factors regarding methcathinone: (1) Its history and current pattern of abuse; (2) the scope, duration and significance of abuse; and (3) what, if any, risk there is to the public health.

Based on methcathinone's structural similarity to amphetamine and

methamphetamine, its amphetamine-like central nervous system stimulant properties in animals, its clandestine production, distribution and abuse, the Administrator, pursuant to 21 U.S.C. 811(h) of the CSA and 28 CFR 0.100, finds that temporary placement of methcathinone into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety.

The following regulations are effective with respect to methcathinone on May 1, 1992, except that individuals registered with DEA in accordance with part 1301 or part 1311 of title 21 of the Code of Federal Regulations, who currently possess methcathinone may continue to do so pending DEA's receipt of an application for amended registration no later than June 1, 1992:

1. **Registration.** Any person who manufactures, distributes, engages in research, imports or exports methcathinone or who proposes to engage in the manufacture, distribution, importation or exportation of methcathinone or conduct research with methcathinone must be registered to conduct such activities in accordance with parts 1301 and 1311 of title 21 of the Code of Federal Regulations.

2. **Security.** Methcathinone must be manufactured, distributed and stored in accordance with §§ 1301.71-1301.76 of title 21 of the Code of Federal Regulations.

3. **Labeling and Packaging.** All labels and labeling for commercial containers of methcathinone must comply with the requirements of §§ 1302.03-1302.05, 1302.07 and 1302.08 of title 21 of the Code of Federal Regulations.

4. **Quotas.** All persons required to obtain quotas for methcathinone must submit applications pursuant to §§ 1303.12 and 1303.22 of title 21 of the Code of Federal Regulations.

5. **Inventory.** Registrants in possession of methcathinone are required to take inventories of all stocks of this substance on hand pursuant to §§ 1304.11-1304.19 of title 21 of the Code of Federal Regulations.

6. **Records.** All registrants required to keep records pursuant to §§ 1304.21-1304.27 of title 21 of the Code of Federal Regulations must do so regarding methcathinone.

7. **Reports.** All registrants engaged in the manufacture, packaging, labeling or distribution of methcathinone are required to submit reports in accordance with §§ 1304.35-1304.37 of title 21 of the Code of Federal Regulations.

8. **Order Forms.** Each distribution of methcathinone requires the use of an order form pursuant to §§ 1305.01-